
IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

LINTON DALE LIVINGSTON, Plaintiff, v. GEICO, and HERTZ RENTAL COMPANY, Defendants.	REPORT AND RECOMMENDATION Case No. 2:16-cv-00878-JNP-DBP District Judge Jill N. Parrish Magistrate Judge Dustin B. Pead
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This matter was referred to Magistrate Judge Dustin Pead by District Judge Jill N. Parrish pursuant to 28 U.S.C. § 636(b)(1)(B). (ECF No. 4.) On August 17, 2016, Plaintiff filed his complaint against Defendants. (ECF No. 3.) On September 13, 2016, Plaintiff filed a motion to amend his complaint, including a proposed amended complaint as an exhibit. (ECF No. 5.) On November 15, 2016, the court entered an order finding the motion to amend moot. (ECF. No. 6.) The court also noted that the complaint filed was missing a page. (*Id.*)

Pursuant to Federal Rule of Civil Procedure 4(m), Defendants should have been served a summons and complaint within 90 days after the complaint was filed. To date, more than 90 days have passed since Plaintiff filed his complaint and his amended complaint; however, Plaintiff has not provided the court with proof of service on Defendants and has not filed any motion regarding service of process. *See* Fed. R. Civ. P. 4(l)(1); 28 U.S.C. § 1915(d). Likewise, Plaintiff never filed a completed copy of his amended complaint.

On January 19, 2017, the court ordered Plaintiff to show cause why this action should not be dismissed for failure to prosecute based on the above facts. (ECF No. 7.) The court warned Plaintiff that failure to respond would result in dismissal of this case. (*Id.*) Plaintiff did not

respond to the court's order. Further, it appears Plaintiff has not furnished the court with his current address. (*See* ECF No. 8.)

RECOMMENDATION

Based on Plaintiff's failure to prosecute this case, the court **RECOMMENDS** the District Court **DISMISS** this case without prejudice.

Copies of the foregoing Report and Recommendation are being sent to all parties who are hereby notified of their right to object. Within **fourteen (14) days** of being served with a copy, any party may serve and file written objections. *See* Fed. R. Civ. P. 72(b)(2). Failure to object may constitute a waiver of objections upon subsequent review.

Dated this 14th day of February 2017.

By the Court:



Dustin B. Pead
United States Magistrate Judge